

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at WINCHESTER

UNITED STATES OF AMERICA)	
)	Case No. 4:08-cr-25-002
v.)	
)	MATTICE / LEE
GARY FLEMING)	

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Count One of the nine-count Indictment; (2) accept Defendant's plea of guilty to Count One, that is conspiracy to distribute and possession with intent to distribute 5 grams or more of cocaine base, also known as "crack", in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B); (3) adjudicate Defendant guilty of the charge in Count One, that is conspiracy to distribute and possession with intent to distribute 5 grams or more of cocaine base, also known as "crack", in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B); and (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter. Neither party filed a timely objection to the report and recommendation [Doc. 105]. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation [Doc. 105] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment is **GRANTED**;

- (2) Defendant's plea of guilty to Count One, that is conspiracy to distribute and possession with intent to distribute 5 grams or more of cocaine base, also known as "crack", in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B) is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of Count One, that is conspiracy to distribute and possession with intent to distribute 5 grams or more of cocaine base, also known as "crack", in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B);
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing; and
- (5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Monday, March 22, 2010 at 9:00 a.m. [EASTERN]** before the Honorable Harry S. Mattice, Jr.

SO ORDERED.

ENTER:

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE